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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,071	02/26/2004	Miyuki Kodama	69464-091	3989

7590 09/08/2005

McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

MALLARI, PATRICIA C

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,071

Applicant(s)

KODAMA ET AL.

Examiner

Patricia C. Mallari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,10-12 and 20 is/are rejected.
- 7) ☒ Claim(s) 3-9 and 13-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 6/7/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 10-12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application Publication 2002/0111559 to Kurata et al. Kurata teaches a method and apparatus for estimating visceral fat area of a subject wherein values indicating height and fat mass are acquired using a data acquiring component 2 (fig. 1; paragraphs 26 and 30 of Kurata). A data processing component 16 (fig. 2 of Kurata) estimates a value indicating visceral fat area of the subject based on the acquired data, wherein the data processing component estimates the value indicating visceral fat area by using the product of an Xth power of the height value and a Yth power of the fat mass value, where each of X and Y is a number other than zero (paragraphs 24 and 32; equations 1-3 of Kurata).

Regarding claims 2 and 12, the estimation of the value indicating visceral fat area is performed by using body fat mass/height², which is equivalent to FM/Ht² (equation 1 of Kurata).

Regarding claims 10 and 20, the value indicating fat mass of the subject is acquired by using a bioelectrical impedance analysis (paragraph 30 of Kurata).

Allowable Subject Matter

Claims 3-9 and 13-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 3, 5, 7, 9, 13, 15, 17, and 19, the prior art of record fails to teach or fairly suggest a method or system for estimating visceral fat area, wherein the estimation of the value indicating visceral fat area is performed by using a parameter expressed as Ht²/FM, where Ht is the value indicating height and FM is the value indicating fat mass, in combination with all of the other limitations of the claims.

Regarding claims 4, 6, 8, 14, 16, and 18, the prior art of record fails to teach or fairly suggest a method or system for estimating visceral fat area of a subject, wherein the estimation of the value indicating visceral fat area is performed by using any one of the following equations:

$$VFA = C11 * FM/Ht^2 + C12 * Age + C13$$

$$VFA = C31 * FM/Ht^2 + C32 * Age + C33 * Wt/Ht^2 + C34$$

$$VFA = C51 * FM/Ht^2 + C52 * Age + C53 * \%Fat + C54$$

where C11, C12, C13, C31, C32, C33, C34, C51, C52, C53, and C54 are constants, FM is the value indicating the subject's fat mass, Ht is the value indicating the subject's height, Age is the value indicating the subject's age, Wt is the value indicating the subject's weight, and %Fat is the value indicating the subject's body fat percentage, in combination with all of the other limitations of the claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,752,760 to Kouou

US Patent Application Publication No. 2002/0151803 to Kouou


US Patent No. 6,905,464 to Kawanishi et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patricia Mallari
Patent Examiner
Art Unit 3736


MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700